

CHAPTER 19
GENERAL ADMINISTRATION
[Prior to 11/5/86, Merit Employment Department [570]]

581—19.1(19A) State system of personnel. The state system of personnel administration is established by Iowa Code chapter 19A. The operational unit of the system is the department of personnel. Specific powers and duties of the department, its director, and the boards and commissions within the department are set forth in Iowa Code chapters 19A, 19B, 20, 79, 97A, 97B, 97C, and 509A.

19.1(1) Operational entities within the department are responsible for programs that include the development and administration of policies and procedures governing employee compensation (salaries and wages); benefit programs, including health, life, dental and disability insurance, unemployment and workers' compensation and deferred compensation and annuities; audit of payroll and other personnel transactions; professional personnel services to state departments; the communication of employment and personnel information to employees and supervisors throughout state government; the development and administration of policies and procedures concerning the recruitment, testing, and certification of personnel seeking employment or promotion; equal employment opportunity and affirmative action; and employee assistance, education, and training.

Responsibilities of the public employee retirement division include the development and administration of policies and procedures relative to the collection, disbursement, and investment of funds contributed to the retirement system by employers and employee members.

19.1(2) The director may establish other offices staffed by employees of the executive branch agencies in which they are employed to carry out the personnel management functions of the state personnel system. The functions performed and the services provided by these offices as well as the staff assigned to perform these functions are subject to policies set by the director.

19.1(3) The director has the statutory authority to designate an employee of the department to carry out the powers and duties of the director in the absence of, or the inability of the director to do so.

19.1(4) Information requests, materials submissions or inquiries concerning any operation or function of the department shall be addressed to the Director, Iowa Department of Personnel, Grimes State Office Building, East Fourteenth Street at Grand Avenue, Des Moines, Iowa 50319-0150. Telephone inquiry to the department may be made through listings provided in the City of Des Moines telephone directory or the Iowa Capitol Complex telephone directory.

19.1(5) The personnel commission is made up of five citizens who are appointed by the governor and confirmed by the senate to serve six-year terms. The chair is a member of the commission and elected by the commissioners. Meetings are open to the public and are held no less than quarterly at the call of the chair. Three members in attendance at a meeting constitute a quorum. Responsibilities of the commission are to:

- a.* Review, amend, and adopt administrative rules on matters within the scope of Iowa Code chapter 19A;
- b.* Approve additions to the classification plan;
- c.* Hold public hearings on pay plan changes;
- d.* Submit an annual report to the governor;
- e.* Represent the public interest in the improvement of personnel administration in the state merit system;
- f.* Consult with and advise the governor and the director on problems concerning personnel administration; and
- g.* Foster the interests of institutions of learning and of industrial, civic, professional, and employee organizations in the improvement of personnel standards in the state merit system.

581—19.2(19A) Petition for declaratory ruling.

19.2(1) Filing. Any person or agency may file a petition with the director for a declaratory ruling concerning the applicability of any statute, rule, policy, decision, or order, administered by the department. A petition is considered filed when it is received in the department. The director shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides an extra copy for that purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

Before the	
Iowa Department of Personnel	
Petition by (name of petitioner))
for a Declaratory Ruling on)
(cite provisions of law involved))
PETITION FOR DECLARATORY RULING	

- The petition must provide the following information:
- a. A clear and concise statement of all relevant facts on which the ruling is requested.
 - b. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
 - c. The questions that the petitioner wants answered, stated clearly and concisely.
 - d. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
 - e. The reasons for requesting the declaratory ruling and disclosure of the petitioner’s interest in the outcome.
 - f. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner’s knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
 - g. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.

The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and the petitioner’s representative, and a statement indicating the person to whom communications concerning the petition shall be directed.

19.2(2) Briefs. The petitioner may attach a brief to the petition in support of the position urged in the petition. The agency may request a brief from the petitioner or from any other person concerning the questions raised in the petition.

19.2(3) Inquiries. Inquiries concerning the status of a petition for a declaratory ruling may be made to the director at the offices of the department.

19.2(4) Consideration. The director may request the petitioner to submit additional information or argument concerning the petition. The director may solicit comments from any person on the questions raised in the petition. Also, comments on those questions may be submitted to the director by any person.

Within 30 calendar days after the filing of the petition, or within any longer period agreed to by the petitioner, the director shall, in writing, issue a ruling on the petition or refuse to do so. It shall be deemed to have been issued on the date mailed to the petitioner.

- 19.2(5) Refusal to issue ruling.** The director may refuse to issue a declaratory ruling for good cause. Good cause includes, but is not limited to, the following reasons:
- a. The petition does not substantially comply with the required form.
 - b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the director to issue a ruling.
 - c. The director does not have jurisdiction over the questions raised in the petition.

- d. The questions raised in the petition are also presented in a current rule making, contested case, or other department or judicial proceeding, that may definitively resolve them.
- e. The questions raised in the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
- f. The facts or questions raised in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a ruling.
- g. There is no need to issue a ruling because the questions raised in the petition have been settled due to a change in circumstances.
- h. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a department decision already made.
- i. The petition requests a declaratory ruling that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition or filed a similar petition and whose position on the questions raised may fairly be presumed to be adverse to that of the petitioner.
- j. The petitioner requests the director to determine whether a statute is unconstitutional on its face.

A refusal to issue a declaratory ruling must indicate the specific grounds for the refusal and constitutes final agency action on the petition. Refusal to issue a declaratory ruling pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the director’s refusal to issue a ruling.

19.2(6) Contents of declaratory ruling—effective date. In addition to the ruling itself, a declaratory ruling must contain the date of its issuance, the name of the petitioner, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory ruling is effective on the date of issuance.

19.2(7) Effect of a declaratory ruling. A declaratory ruling is binding on the department and the petitioner and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those contained in the petition. As to all other persons, a declaratory ruling serves only as precedent and is not binding on the department. The issuance of a declaratory ruling constitutes final agency action on the petition.

581—19.3(19A) Petition for rule making.

19.3(1) Filing. Any person or agency may file a petition for rule making with the director. A petition is deemed filed when it is received in the department. The director shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides an extra copy for that purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

Before the
Iowa Department of Personnel

Petition by (name of petitioner))	
for the (adoption, amendment, or)	PETITION FOR
repeal) of rules relating to)	RULE MAKING
(state subject matter).)	

The petition must provide the following information:

- a. A clear statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.

b. A citation to any law deemed relevant to the department's authority to take the action urged or to the desirability of that action.

c. A brief summary of petitioner's arguments in support of the action urged in the petition.

d. A brief summary of any data supporting the action urged in the petition.

e. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action which is the subject of the petition.

19.3(2) *Content.* The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and the petitioner's representative, and a statement indicating the person to whom communications concerning the petition shall be directed.

19.3(3) *Denial.* The director may deny a petition because it does not substantially conform to the required form.

19.3(4) *Briefs.* The petitioner may attach a brief to the petition in support of the action urged. The director may request a brief from the petitioner or from any other person concerning the substance of the petition.

19.3(5) *Inquiries.* Inquiries concerning the status of a petition for rule making may be made to the director at the offices of the department.

19.3(6) *Consideration.*

a. The director may request the petitioner to submit additional information or argument concerning the petition. The director may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the director by any person.

b. Within 60 calendar days after the filing of the petition, or within any longer period agreed to by the petitioner, the director shall, in writing, deny the petition and notify the petitioner of that action and the specific grounds for the denial, or grant the petition and notify the petitioner that rule-making proceedings have begun.

The petitioner shall be deemed notified of the denial or granting of the petition on the date the notification is mailed.

c. Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the director's rejection of the petition.

581—19.5(19A) Drug use and drug tests.

19.5(1) *Policy.* Employees shall not report to work while under the influence of alcohol or illegal drugs. The unauthorized use, possession, sale, purchase, manufacture, distribution, or transfer of any illegal drug or alcoholic beverage while engaged in state business or on state property is prohibited. Employees who violate this policy are subject to disciplinary action up to and including discharge.

19.5(2) *Definition and applicability.*

a. "Drug test" means any blood, urine, saliva, chemical, or skin tissue test conducted for the purpose of detecting the presence of a chemical substance in an individual. These rules authorize only the use of urinalysis tests for this purpose. Other methods of drug testing are prohibited.

b. These rules do not apply to drug tests required under federal statutes, drug tests conducted pursuant to a nuclear regulatory commission policy statement, or drug tests conducted to determine if an employee is ineligible to receive workers' compensation under Iowa Code section 85.16, subsection 2.

19.5(3) *Preemployment drug tests.* A urinalysis drug test may be performed as part of a preemployment physical only for department of corrections correctional officer positions. Application materials for these positions shall include clear notice that a drug test is part of the preemployment physical. Requirements for these tests are as follows:

a. A urine sample will be collected during the preemployment physical examination.

b. The sample container will include identification for chain of custody purposes that does not include any part of the applicant's name or social security number.

c. The container will be transported directly from the site of the physical examination to a laboratory or other testing facility. Samples may be transported via certified mail or courier service.

d. The sample will be tested and retained by the laboratory or other testing facility for a minimum of 30 days. The applicant may have the sample analyzed, at the applicant's expense, by a laboratory or other testing facility approved in accordance with the administrative rules of the department of public health.

e. Each drug test will include an initial screen and a confirmation of positive results. The initial screening test may utilize immunoassay, thin layer, high performance liquid or gas chromatography, or an equivalent technology. If the initial test utilizes immunoassay, the test kit must meet the requirements of the Food and Drug Administration. All confirmation tests will be done by Gas Chromatography - Mass Spectrometry (GC-MS) at a laboratory or other testing facility approved in accordance with the administrative rules of the department of public health.

f. At a minimum, tests will screen for marijuana, cocaine, and amphetamines.

g. Procedures for obtaining, sealing, identifying, transporting, storing, and retention of samples shall protect the chain of custody and the viability of the sample, and shall comply with department of public health administrative rules.

h. The laboratory or other testing facility shall report the results of the drug tests to the appointing authority. The confidentiality of the information shall be protected by all parties.

i. The appointing authority shall provide an applicant an opportunity to rebut or explain the results of a positive drug test by administering a pretest questionnaire or arranging a posttest conference with the applicant.

j. A positive confirmation drug test will disqualify an applicant from further consideration and hire for department of corrections correctional officer positions.

19.5(4) *Employee drug tests.* Drug testing of employees is prohibited except as provided in sub-rule 19.5(2), paragraph "b."

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